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Attorney for Marcelo Benson

United States District Court
Eastern District of Washington

United States,

Plaintiff,

v.

Marcelo Anthony Benson

Defendant.

No. 1:22-cr-02043-MKD

(Expedited) Unopposed Motion
for Sentence Reduction under
Amendment 821 (Status Points)

**January 12, 2024, at 6:30 p.m.
Without Oral Argument**

1 Marcelo Anthony Benson files this unopposed motion for sentence reduction.
2 He was at the time of his original sentencing, a status offender – that is, he received
3 two points for having committed the instant offense while under a criminal justice
4 sentence. On November 1, 2023, the United States Sentencing Commission
5 amended §4A1.1 to eliminate this two-point increase for individuals with less than 7
6 criminal history points, effective February 1, 2024.

7 According to USSG 1B1.10, in the case of an individual serving a term of
8 imprisonment and the applicable guideline range has since been lowered, the Court
9 may reduce the term of imprisonment in accordance with 18 U.S.C. §3582(c). The
10 new sentence shall not be below the minimum of the new guideline range
11 (§1B1.10(b)(A), with the sole exception that a proportional reduction is authorized
12 for those individuals who provided substantial assistance to the government.
13 (§1B1.10(b)(2)(B). The new sentence may not be less than the time the individual
14 has already served. (§1B1.10(b)(C).

15 Counsel conferred with AUSA Ian Garriques and both parties agree that Mr.
16 Benson qualifies for a reduction based on Amendment 821. His Criminal History
17 Category drops from IV to III.¹ The United States Probation Office filed a
18

19 ¹ The United States Probation Office filed a memorandum indicating Mr. Benson qualifies for the sentence reduction. ECF 76.

memorandum laying out the prior and new guidelines, noting he received a bottom of the guideline sentence.:

	Original Computations	Retroactive Amendment 821 Effective February 1, 2024
Total Offense Level/ Criminal History Points/ Criminal History Category	12 7 IV	12 5 III
Guideline Imprisonment Range	21 to 27 months	15 to 21 months
Substantial Assistance Departure/Variance	None	
Sentence Imposed	21 months	

Given Mr. Benson's release date is May 24, 2024, imposing a sentence at the bottom of the new guideline range would be below the time he has already served. Hence, he asks for a time served sentence, effective February 1, 2024. In order to provide the Bureau of Prisons time to process Mr. Benson's new sentence, he asks the Court enter the order to be effective February 1, 2024, before the effective date.

1 Dated: January 8, 2024.

Federal Defenders of Eastern Washington & Idaho

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3 *s/Andrea K. George*

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10 Service Certificate

11 I certify that on January 8, 2024, I electronically filed the foregoing with the
12 Clerk of the Court using the CM/ECF System, which will notify Assistant
13 United States Attorneys: Ian Garriques.

14 *s/Andrea K. George*

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